

**Introduced by Senator Padilla**

February 17, 2012

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An act to amend Section 313 of, and to repeal Section 52164.6 of, the Education Code, relating to English learners.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1108, as introduced, Padilla. English learners: reclassification.

Existing law requires each school district that has one or more pupils who are English learners, and to the extent required by federal law, a county office of education and a charter school, to assess the English language development of each of those pupils in order to determine their level of proficiency. Existing law requires the State Department of Education, with the approval of the State Board of Education, to establish procedures for conducting the assessment and for the reclassification of a pupil from English learner to English proficient. Existing law requires the reclassification procedures developed by the department to use multiple criteria, including, but not limited to, 4 specified criteria, in determining whether to reclassify a pupil as proficient in English.

This bill would instead require the reclassification procedures to use only 3 of the 4 specified criteria and would no longer require the comparison of the pupil's basic skills performance against an empirically established range of basic skills performance based on the performance of English-proficient pupils of the same age.

The inoperative Chacon-Moscone Bilingual-Bicultural Education Act of 1976 contains provisions regarding the identification criteria and allocation formulas that existing law requires to be used for funding purposes. One of the inoperative provisions requires a school district in which pupils of limited English proficiency are enrolled to establish

reclassification criteria, requires the classification process to use multiple criteria that includes specified elements, and requires the State Board of Education to adopt regulations setting forth standards for language reclassification criteria to be adopted by school districts.

This bill would repeal the reclassification provision of the inoperative law.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 313 of the Education Code is amended  
2 to read:

3 313. (a) Each school district that has one or more pupils who  
4 are English learners and, to the extent required by federal law,  
5 each county office of education and each charter school shall assess  
6 the English language development of each pupil in order to  
7 determine the level of proficiency for purposes of this chapter.

8 (b) The department, with the approval of the state board, shall  
9 establish procedures for conducting the assessment required  
10 pursuant to subdivision (a) and for the reclassification of a pupil  
11 from English learner to English proficient.

12 (c) Commencing with the 2000–01 school year until subdivision  
13 (d) is implemented, the assessment shall be conducted upon initial  
14 enrollment, and annually, thereafter, during a period of time  
15 determined by the Superintendent and the state board. The annual  
16 assessments shall continue until the pupil is ~~redesignated~~  
17 *reclassified* as English proficient. The assessment shall primarily  
18 utilize the English language development test identified or  
19 developed by the Superintendent pursuant to Chapter 7  
20 (commencing with Section 60810) of Part 33 of Division 4 of Title  
21 2.

22 (d) (1) This subdivision shall not be implemented unless and  
23 until the department receives written documentation from the  
24 United States Department of Education that federal law permits  
25 the implementation of the changes set forth in this subdivision or  
26 until the 2013–14 school year, whichever occurs later.

27 (2) The assessment shall be conducted annually during a period  
28 that commences on the day upon which 55 percent of the  
29 instructional year is completed through July 1 of that calendar

year. Annual assessments shall continue until the pupil is ~~redesignated~~ *reclassified* as English proficient. The annual assessment shall primarily utilize the English language development test identified or developed by the Superintendent pursuant to Chapter 7 (commencing with Section 60810) of Part 33 of Division 4 of Title 2.

(3) The assessment shall be conducted upon the initial enrollment of a pupil in order to provide information to be used to determine if the pupil is an English learner.

(A) If the initial enrollment of a pupil occurs on a date outside of the testing period identified pursuant to paragraph-(1) (2), the prior year's annual assessment for the grade in which the pupil is enrolling shall be used for this purpose.

(B) If the initial enrollment of a pupil occurs on a date within the testing period identified pursuant to paragraph-(1) (2), the initial assessment of the pupil shall be conducted as part of the annual assessment conducted pursuant to paragraph-(1) (2).

(4) Notwithstanding paragraph-(1) (2), a school district shall assess the English language development of a pupil pursuant to this section no more than one time per school year.

(e) The assessments conducted pursuant to subdivision (d) shall be conducted in a manner consistent with federal statutes and regulations.

(f) The reclassification procedures developed by the department shall utilize ~~multiple~~ *the following* criteria in determining whether to reclassify a pupil as *English* proficient ~~in English, including, but not limited to, all of the following:~~

(1) Assessment of language proficiency using an objective assessment instrument, including, but not limited to, the English language development test that is developed or acquired pursuant to Section 60810. *The department shall determine the score for reclassification.*

(2) Teacher evaluation, including, but not limited to, a review of the pupil's curriculum mastery.

(3) Parental opinion and consultation.

~~(4) Comparison of the performance of the pupil in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient pupils of the same age, that demonstrates whether the pupil is sufficiently proficient in English to participate effectively in a curriculum~~

1 ~~designed for pupils of the same age whose native language is~~  
2 ~~English.~~

3 (g) This section does not preclude a school district or county  
4 office of education from testing English learners more than once  
5 in a school year if the school district or county office of education  
6 chooses to do so.

7 SEC. 2. Section 52164.6 of the Education Code is repealed.

8 ~~52164.6. Reclassification criteria shall be established by each~~  
9 ~~school district in which pupils of limited English proficiency are~~  
10 ~~enrolled. The criteria shall determine when pupils of limited~~  
11 ~~English proficiency have developed the English language skills~~  
12 ~~necessary to succeed in an English-only classroom. The~~  
13 ~~reclassification process shall, at a minimum, utilize multiple~~  
14 ~~criteria, including, but not limited to, all of the following:~~

15 (a) ~~Teacher evaluation, including a review of the pupil's~~  
16 ~~curriculum mastery.~~

17 (b) ~~Objective assessment of language proficiency and reading~~  
18 ~~and writing skills.~~

19 (c) ~~Parental opinion and consultation.~~

20 (d) ~~An empirically established range of performance in basic~~  
21 ~~skills, based on nonminority English-proficient pupils of the same~~  
22 ~~grade and age, which demonstrates that the pupil is sufficiently~~  
23 ~~proficient in English to succeed in an English-only classroom.~~

24 ~~The board shall adopt regulations setting forth standards for~~  
25 ~~language reclassification criteria to be adopted by school districts.~~  
26 ~~The board's regulations shall, at a minimum, prescribe a~~  
27 ~~reclassification process that utilizes multiple criteria as required~~  
28 ~~by this section.~~

29 Each school district shall, in following the board's regulations  
30 establish criteria for determining when pupils of limited English  
31 proficiency enrolled in programs defined in Section 52163 have  
32 developed the English language skills of comprehension, speaking,  
33 reading, and writing necessary to succeed in an English-only  
34 instructional setting.